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Of Attorneys for Defendant Country Mutual Insurance Company

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

JASON GILL,

Plaintiff,

v.

COUNTRY MUTUAL INSURANCE
COMPANY, a foreign corporation,

Defendant.

Case No.

**NOTICE OF REMOVAL AND
DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant Country Mutual Insurance Company, hereinafter “Country Mutual,” hereby removes this action from the Circuit Court of the State of Oregon for Josephine County to the United States District Court for the District of Oregon Medford Division.

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NOTICE OF REMOVAL IS TIMELY

1.

Country Mutual is a party in a civil action brought against it in the Circuit Court of the State of Oregon for Josephine County entitled: *Jason Gill v. Country Mutual Insurance Company*, Case No. 16CV19678. (A copy of the Summons and Complaint in that action is attached to this Notice as Exhibit 1).

2.

The state court action was commenced when the Complaint was filed with the County Clerk for Josephine County, Oregon, on or about June 22, 2016. A copy of the Summons and Complaint was served upon the CT Corporation System as statutory attorney for Country Mutual on June 24, 2016. Country Mutual's Agent for Service of Process received the complaint on June 24, 2016. Country Mutual has not yet filed a Notice of Appearance in this case.

3.

Pursuant to 28 U.S.C. § 1446(2), a defendant may file a notice of removal of a civil action within thirty (30) days after the receipt by the defendant of a copy of the initial pleading setting forth the claim for relief upon which such action is based.

DIVERSITY JURISDICTION EXISTS

4.

Plaintiff is a citizen of the State of Oregon. Country Mutual is domiciled in Illinois with its principal place of business in Bloomington, Illinois.

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5.

PAGE 2 – NOTICE OF REMOVAL AND DEMAND FOR JURY TRIAL

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This is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332. Country Mutual may remove this matter pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446 because the amount in controversy exceeds the sum of \$75,000.00 and Country Mutual and Plaintiffs are citizens of different states.

REMOVAL TO THIS DISTRICT IS PROPER

6.

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, removal of the above-captioned state court action to this Court is appropriate.

7.

Pursuant to 28 U.S.C. § 1441(a), removal is made to this Court as the district embracing the place where the state action is pending.

8.

Country Mutual is providing the Plaintiff, through his counsel of record, written notice of the filing of this Notice of Removal. Furthermore, Country Mutual is filing a copy of this Notice with the Clerk of the Josephine County Court.

DATED: June 29, 2016.

THENELL LAW GROUP, P.C.

s/ Daniel E. Thenell

By: _____

Daniel E. Thenell, OSB #971655
Email: dan@thenelllawgroup.com
Kirsten L. Curtis, OSB #113638
Email: Kirsten@thenelllawgroup.com
12909 SW 68th Pkwy, Suite 320
Portland, OR 97223
Phone: (503) 372-6450
Fax: (503) 372-6496

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 29, 2016, I served the foregoing **NOTICE OF REMOVAL AND DEMAND FOR JURY TRIAL** on:

Robert E. L. Bonaparte
1500 SW 1st Ave. Suite 765
Portland, OR 97201
bob@bb-law.net - Email
Of Attorneys for Plaintiff

- ☒ by electronic means through the Court's Case Management/Electronic Case Filing system on the date set forth above.
- _____ by mailing a full, true and correct copy thereof in a sealed, first-class postage-prepaid envelope, addressed to the attorney as shown above, the last-known office address of the attorney, and deposited with the United States Postal Service at Portland, Oregon on the date set forth above.
- _____ by causing a full, true and correct copy thereof to be hand-delivered to the attorney at the attorney's last-known office address listed above on the date set forth above.
- _____ by sending a full, true and correct copy thereof via overnight courier in a sealed, prepaid envelope, addressed to the attorney as shown above, the last-known office address of the attorney, on the date set forth above.
- _____ by faxing a full, true and correct copy thereof to the attorney at the fax number shown above, which is the last-known fax number for the attorney's office, on the date set forth above.

THENELL LAW GROUP, P.C.

s/ Daniel E. Thenell

By: _____

Daniel E. Thenell, OSB #971655
Email: dan@thenelllawgroup.com
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6/24/2016

<https://publicaccess.courts.oregon.gov/PublicAccessLogin/CaseDetail.aspx?CaseID=29395050>Skip to Main Content Logout My Account Search Menu Search Civil, Family, Probate and Tax Court Case
Records Refine Search Back

Location : Josephine Images Help

REGISTER OF ACTIONSCASE NO. 16CV19678**Jason Gill vs Country Mutual Insurance Company**§
§
§
§
§Case Type: **Contract**
Date Filed: **06/22/2016**
Location: **Josephine**

PARTY INFORMATION

Defendant Country Mutual Insurance Company**Attorneys****Plaintiff Gill, Jason****Robert E L Bonaparte**
Retained
503 242-0008(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS	
06/22/2016	<u>Complaint</u> Created: 06/22/2016 10:32 AM
06/22/2016	<u>Service</u> Country Mutual Insurance Company Created: 06/22/2016 10:32 AM
06/22/2016	<u>Summons</u> Created: 06/22/2016 1:21 PM
	Unerved

FINANCIAL INFORMATION

	Plaintiff Gill, Jason		
	Total Financial Assessment		531.00
	Total Payments and Credits		531.00
	Balance Due as of 06/24/2016		0.00
06/22/2016	Transaction Assessment		531.00
06/22/2016	xWeb Accessed eFile Receipt # 2016-2287601	Gill, Jason	(531.00)

6/22/2016 10:22:58 AM
16CV19678

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF JOSEPHINE

JASON GILL,)	Case No.
)	
Plaintiff,)	COMPLAINT
)	
v.)	(Breach of Insurance
)	Contract)
COUNTRY MUTUAL INSURANCE)	
COMPANY,)	(Not Subject to Mandatory
)	Arbitration)
Defendant.)	
)	JURY TRIAL REQUESTED
)	
)	PRAYER AMOUNT: \$500,000

CLAIM FOR RELIEF
(Breach of Insurance Contract)

COUNT 1
(Express Contract)

1.

Plaintiff Jason Gill ("plaintiff") is, and at all times mentioned herein was, the owner of real and personal property located at 160 Patton Bar Road, Cave Junction, Oregon (the "property").

2.

Defendant Country Mutual Insurance Company ("defendant") is, and at all times mentioned herein was, a corporation authorized to transact business in Oregon.

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3.

Defendant issued a homeowners policy (No. A36K4785141) to plaintiff covering the property. The policy was issued for valuable consideration in the form of policy premiums, which were paid by plaintiff.

4.

Pursuant to the homeowners policy, defendant agreed to pay for certain losses, including damage to structure and personal property.

5.

While the policy was in force, on or about December 21, 2015, a fire caused physical damage to plaintiff's structure and personal property.

6.

The losses suffered by plaintiff fall within the coverage of defendant's policy. Pursuant to the terms of the policy, plaintiff sought payment from defendant for all his damages. Defendant has refused to pay any of plaintiff's losses to real and personal property.

7.

Defendant's denial and refusal to pay any of plaintiff's damages constitutes a breach of the insurance contract.

8.

As a result of defendant's breach of contract, plaintiff has been damaged in the amount of \$500,000.

9.

Plaintiff is entitled to attorney fees under ORS 742.061.

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COUNT 2
(Implied Covenant)

10.

Plaintiff realleges and incorporates by reference the allegations in paragraphs 1-9.

11.

Defendant failed to pay plaintiff and delayed payment to plaintiff for losses that were caused by the fire, in violation of the policy of insurance, thus causing damages to plaintiff.

12.

Defendant violated the implied covenant of good faith and fair dealing in failing properly to investigate the loss, adjust the claim in a timely manner, and pay plaintiff for all the losses sustained as a result of the fire, causing damages to plaintiff:

a. On or about December 21, 2015, a fire occurred on plaintiff's property. The fire, smoke, and fire suppression efforts caused extensive damage to plaintiff's structure and contents.

b. Plaintiff promptly reported the loss, thereby constituting proof of loss under Parks v. Farmers Ins. Co., 347 Or 374, 227 P3d 1127 (2009).

c. Plaintiff has supplied all information and documentation requested by defendant.

d. Defendant has delayed and failed to pay all amounts owed to plaintiff under the policy.

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13.

It was foreseeable to defendant that if it breached its obligations under the insurance policy, plaintiff would suffer damages.

14.

As a result of the breach of contract by defendant, plaintiff has suffered damages as set forth in paragraph 8.

WHEREFORE, plaintiff prays for relief from defendant as follows:

- (a) On the CLAIM FOR RELIEF: For damages in the amount of \$500,000;
- (b) For prejudgment interest at the legal rate from December 21, 2015;
- (c) For plaintiff's attorney fees, costs and disbursements herein;
- (d) For such other relief as the court deems just and proper.

Dated this 22nd day of June, 2016.

SHENKER & BONAPARTE, LLP

By /s/ Robert E.L. Bonaparte
Robert E.L. Bonaparte, OSB No. 883411
Of Attorneys for Plaintiff Jason Gill

Trial Attorney:
Robert E.L. Bonaparte, OSB No. 883411

6/22/2016 11:57:21 AM
16CV19678

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF JOSEPHINE

JASON GILL

Plaintiff,

v.

COUNTRY MUTUAL INSURANCE
COMPANY,

Defendant.

Case No. 16CV19678

SUMMONS

TO: COUNTRY MUTUAL INSURANCE COMPANY
CORPORATION SERVICE COMPANY
1127 BROADWAY ST NE STE 310
SALEM, OR 97301

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, Plaintiff(s) will apply to the court for the relief demanded in the complaint.

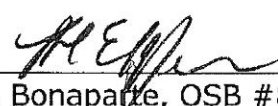
NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

1 You must "appear" in this case or the other side will win automatically. To
 2 "appear" you must file with the court a legal paper called a "motion" or "answer."
 3 The "motion" or "answer" must be given to the court clerk or administrator within
 4 30 days along with the required filing fee. It must be in proper form and have
 5 proof of service on the plaintiff's attorney or, if the plaintiff does not have an
 6 attorney proof of service upon the plaintiff.

7 If you have any questions, you should see an attorney immediately. If you
 8 need help in finding an attorney, you may call the Oregon State Bar's Lawyer
 9 Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

10 DATED this 22nd day of June, 2016.

11 SHENKER & BONAPARTE, LLP

12 By: 
 13 Robert E.L. Bonaparte, OSB #883411
 14 Of Attorneys for Plaintiff Jason Gill

15 STATE OF OREGON)
 16) ss.
 17 County of Multnomah)

18 I, the undersigned attorney of record for the plaintiff, certify that the
 19 foregoing is an exact and complete copy of the original summons in the above
 20 entitled action.

21 By: _____
 22 Robert E.L. Bonaparte, OSB #883411

23 * * *

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby
 directed to serve a true copy of this summons, together with a true copy of the
 complaint mentioned therein, upon the individual(s) or other legal entity(ies) to
 whom or which this summons is directed, and to make your proof of service upon
 a separate document which you shall attach hereto.


By: 
 Robert E.L. Bonaparte, OSB #883411

1 You must "appear" in this case or the other side will win automatically. To
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 9 Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.


10 DATED this 22nd day of June, 2016.

11 SHENKER & BONAPARTE, LLP

12 By: 
 13 Robert E.L. Bonaparte, OSB #883411
 14 Of Attorneys for Plaintiff Jason Gill


15 STATE OF OREGON)
 16) ss.
 17 County of Multnomah)

18 I, the undersigned attorney of record for the plaintiff, certify that the
 19 foregoing is an exact and complete copy of the original summons in the above
 20 entitled action.

21 By: 
 22 Robert E.L. Bonaparte, OSB #883411

23 * * *

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby
 directed to serve a true copy of this summons, together with a true copy of the
 complaint mentioned therein, upon the individual(s) or other legal entity(ies) to
 whom or which this summons is directed, and to make your proof of service upon
 a separate document which you shall attach hereto.

By: 
 Robert E.L. Bonaparte, OSB #883411